

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed October 12, 2004. Claims 1, 3-11, and 13-23 were rejected. The claims have been amended to address the concerns raised by the Examiner.

Claims 1-23 were originally presented. Claims 1, 3-11, and 13-23 remain in the application. Claims 2 and 12 were canceled by previous amendment. Claims 1, 10, 20, 21, 22, and 23 have been amended. New claims 24 and 25 have been added. No new matter has been added.

New claims 24 and 25 present subject matter comparable to that of claims 4 and 5, presented in dependent form with respect to claim 21.

Substance of Interview

The Applicant thanks the Examiner for granting a telephonic interview on December 20, 2004 to discuss proposed amendments. In the interview, independent claims 1, and 21 were specifically discussed, as was dependent claim 4. General agreement was reached with respect to proposed amendments to claim 1, which amendments also apply to claims 10, 20, 22, and 23. Specifically, the Examiner agreed that the addition of language in claim 1 specifying that the elongate fastener extends "along a majority of a length of the upper end of the bag" probably overcomes the rejections based on the Bremer reference. Similarly, the Examiner agreed that the amendment specifying that the "opposing portions" are configured to "releasably" attach to each other probably overcomes the rejections based on the Baker reference. With respect to claim 4, the Examiner agreed that the amendment to claim 4 as presented herein appears to overcome the Vieaux reference. This proposed amendment also applies to claim 14.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 3, 10-11, 13, 22, and 23 (including independent claims 1, 10, 22, and 23) were rejected under 35 U.S.C. § 102(b) as being anticipated by Bremer. The Applicant respectfully submits that Bremer does not teach each and every limitation of independent claims 1, 10, 22,

and 23 as now presented, and therefore does not anticipate those claims. Specifically, independent claims 1, 10, 22, and 23 as amended all specify an “elongate fastener . . . extending along a majority of a length of the upper end of the bag”, or comparable language. The word “along” means “by the length; lengthwise; in a line with the length.” Webster’s New Twentieth Century Dictionary, Unabridged, 51 (Prentice Hall Press, 1983). Bremer does not disclose a net bag having an elongate fastener extending lengthwise or in a line with the length of an upper end of the bag. Rather, Bremer discloses a plurality of fasteners disposed at radial locations and extending outward from a perimeter of a strainer device. None of these are an elongate fastener extending along or in a line with the upper end of a bag. Likewise, Bremer does not disclose an elongate fastener that extends along a majority of a length of the upper end of a bag.

Accordingly, Applicant respectfully submits that independent claims 1, 10, 22, and 23 as now presented are allowable over Bremer, and claims 3, 11 and 13 are allowable as being dependent upon an allowable base claim.

Claims 1-3, 10-13, 22, and 23 (including independent claims 1, 10, 22, and 23) were rejected under 35 U.S.C. § 102(b) as being anticipated by Baker. Independent claims 1, 10, 22, and 23 have each been amended to specify that the elongate fastener has “opposing portions, extending along the upper end of the bag, the opposing portions being configured to wrap around the hoop-shaped portion and releasably attach *to each other* to releasably secure the upper end of the bag to the hoop-shaped frame portion.” (emphasis added) Baker does not teach or suggest such structure. **The opposing portions identified by the Examiner (48, 50 in FIG. 2) do not releasably attach *to each other*.** The point where the Examiner suggests that the opposing portions are connected (46 in FIG. 2) is a location where the opposing portions do not actually exist – because it is the root of the opposing portions. The opposing portions are bifurcations of a single structure. That they are connected at their root is simply an acknowledgement of the fact that they are opposing portions extending from a common base. Still, the opposing portions actually identified by the Examiner do not attach to each other. At the base (46) there are no opposing portions that could attach. The Examiner has pointed to no portion of the Baker reference that would suggest the use of fasteners that connect the opposing sides 48 and 50 together. Accordingly, Applicant respectfully submits that independent claims 1, 10, 22, and 23

are allowable over the cited art, and claims 2-3, 11-13 are allowable as being dependent upon an allowable base claim.

Independent claim 21 was rejected under 35 U.S.C. § 102(b) as being anticipated by Vieaux. The Applicant respectfully submits that Vieaux does not teach or suggest each and every element of claim 21 as now presented. Claim 21 has been amended to specify a bag having “an open upper end having a flexible rim extending therealong.” Vieaux includes a zipper, but this zipper does not extend *along* a flexible rim which extends along an open upper end of a net bag. The Examiner is referred to the definition of “along” as presented above. The zipper of Vieaux is not *in a line with* the length of an upper rim of a net bag. Moreover, the claim specifies “a zipper, extending along the flexible rim, configured to releasably wrap the rim around the hoop-shaped frame portion.” The zipper of Vieaux is not part of the upper rim, and therefore it is not configured to releasably wrap the rim around the hoop-shaped frame portion. Any “wrapping” of the upper rim of Vieaux around the rim bears no relation to the zipper. Instead, the zipper of Vieaux is designed to close the front of the bag together. Accordingly, Applicant respectfully submits that claim 21 as amended is allowable over the cited art, and urges the Examiner to withdraw the rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 4, 6-9, 14 and 16-19 were rejected under 35 U.S.C. § 103 as being unpatentable over Bremer in view of Baker and Chat. The Applicant respectfully submits that these claims are allowable as being dependent upon an allowable base claim, for the reasons presented above.

Additionally, the cited references, when combined, do not teach or suggest all of the elements of claims 4 or 14, upon which the remainder of the claims in this group depend. Chat does not disclose “a length measuring scale, comprising indicia directly disposed on a surface of the net material,” as claimed in claims 4 and 14 as amended. The length scale of Chat does not include indicia disposed directly upon net material, but includes indicia directly disposed on a rigid gutter. The Examiner has pointed to no portion of Chat (which is presented in a foreign language) that suggests placing a length scale directly on net material, rather than on some other structure that *could* be attached to net material. Moreover, the Bremer and Baker references do

not teach or suggest a length scale of any kind or configuration. Accordingly, the Applicant respectfully submits that claims 4, 6-9, 14 and 16-19 as now presented are in condition for allowance over the cited references.

Dependent claims 5 and 15 were rejected under 35 U.S.C. § 103 as being unpatentable over Bremer in view of Baker, Chat, and Weber. As above, the Applicant respectfully submits that these claims are allowable as being dependent upon an allowable base claim, for the reasons presented above. Additionally, the Applicant respectfully submits that the cited references, when taken together, do not teach or suggest all the elements of the claims as presented. Neither Chat nor Weber teach or suggest a length measuring scale “comprising indicia directly disposed on a surface of the net material,” as claimed in claims 4 and 14 as amended, much less such a measuring scale “that extends from a first position adjacent the upper end of the bag, thence substantially across the closed end, to a second position adjacent the upper end of the bag and substantially opposite the first position.” Claim 5.

As noted above, Chat discloses a length scale disposed on a rigid gutter. Weber discloses a rigid length measuring scale that is extendable from the handle of a fish net frame. Bremer and Baker do not teach or suggest a length scale at all. Accordingly, a combination of the teachings of these references would either result in the rigid gutter of Chat, with length units indicated on the gutter, attached to a net bag of Baker or Bremer. Alternatively, the ruler-type scale of Weber could be configured to extend from the handle of Baker or Bremer. Nevertheless, no combination of the teachings of Baker, Bremer, Chat, and Weber, could possibly suggest the measuring scale claimed by the Applicant. Accordingly, the Applicant respectfully submits that claims 5 and 15 as originally presented are in condition for allowance over the cited references.

Independent Claim 20 was rejected under 35 U.S.C. § 103 as being obvious in view of Baker. As noted above, claim 20 has been amended to specify that the elongate fastener has “opposing portions that wrap around the hoop-shaped portion and releasably connect to each other.” Baker does not teach or suggest such structure, as discussed above with respect to claim 1. Accordingly, the Applicant respectfully submits that claim 20 as now presented is in condition for allowance over the cited references.

CONCLUSION

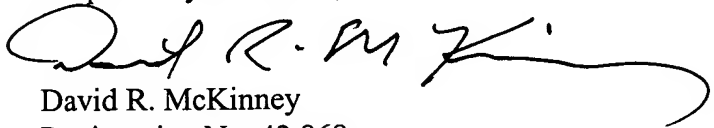
In light of the above, Applicant respectfully submits that pending claims 1, 3-11, and 13-25 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call David R. McKinney at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Two (2) dependent claims (claims 2 and 12) were canceled by previous amendment. Two (2) new dependent claims (claims 24 and 25) have been added. Therefore, no additional fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 20th day of Dec., 2004.

Respectfully submitted,


David R. McKinney
Registration No. 42,868

THORPE NORTH & WESTERN, LLP
Customer No. 20,551
P.O. Box 1219
Sandy, Utah 84091-1219
Telephone: (801) 566-6633